



REPORT OF THE ADJUDICATOR

WASPA Member (SP)	FoneWorx
Telephone Network(s)	MTN
Information Provider (IP) (if applicable)	Lezmin 2688 cc trading as "Mobility" on behalf of Louis Carrera
Service Type	Adult Service IVR
Source of Complaints	Competitor
Complaint Number	#0023

Complaint

A complaint was received from a competitor of Mr Carrera's concerning Mr Carrera's advertising, particularly in the "Citizen" newspaper's classified advertisements in respect of an adult service IVR line on number 083 913 3825 and specifically in that Mr Carrera indicates in his advertisements that standard rates will apply and omits wording to indicate in fact that VAS rates apply and free minutes do not.

The Secretariat conducted an investigation into the service offered by Mr Carrera via the IP and using the SP.

The following breaches of the WASPA Code of Conduct were raised:

3.9. Information providers

3.9.1. Members must bind any information provider with whom they contract for the provision of services to ensure that none of the services contravene the Code of Conduct.

3.9.2. The member must suspend or terminate the services of any information provider that provides a service in contravention of this Code of Conduct.

4.1. Provision of information to customers

4.1.1. Members are committed to honest and fair dealings with their customers. In particular, pricing information for services must be clearly and accurately conveyed to customers and potential customers.

4.1.2. Members must not knowingly disseminate information that is false or deceptive, or that is likely to mislead by inaccuracy, ambiguity, exaggeration or omission.

6.2. Pricing of services

6.2.2. All advertisements for services must include the full retail price of that service.

6.2.4. Pricing contained in an advertisement must not be misleading.

Investigation

The Secretariat received a response from the SP indicating:

- The SP provided the service to an IP (Lezmin 2688 cc trading as “Mobility”), who in turn provided the service to Mr Carrera.
- The SP was not aware of the true IP.
- The SP took reasonable steps to inform the IP of the WASPA Code of Conduct and the IP did the same in respect of Mr Carrera.
- In their view, competitor initiated complaints of this nature should be “frowned upon” and the complainant could and should have approached the SP directly.
- The SP has taken steps to terminate the service, which has in fact occurred.

Decision

The Adjudicator upheld the complaint.

The wording used by Mr Carrera in his advertising is misleading and as such a breach of Clauses 4.1 and 6.2.4 of the WASPA Code of Conduct. The Adjudicator made no specific finding regarding the wording that should be used in advertisements of this nature. Detailed requirements of this nature are more appropriately dealt with in the imminent WASPA Advertising Guidelines.

The Adjudicator noted that the WASPA Code of Conduct is not restricted to any person or class of persons. Once the WASPA Code of Conduct process is more mature, it is hoped that greater use can be made of the informal process contemplated in the WASPA Code of Conduct or be resolved by members between themselves.

As the SP dealt swiftly and effectively with the complaint, in accordance with Clause 3.9.2 of the WASPA Code of Conduct, no sanction is required or imposed.